

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE COLUMBIA UNIVERSITY
PATENT LITIGATION

MDL No. 1592 (MLW)

This Document Relates To All Actions

**SUPPLEMENTAL DECLARATION OF DAVID I. GINDLER IN SUPPORT OF
COLUMBIA UNIVERSITY'S MOTION TO STAY LITIGATION PENDING
CONCLUSION OF REEXAMINATION AND REISSUE PROCEEDINGS IN THE
PATENT AND TRADEMARK OFFICE**

I, David I. Gindler, declare as follows:

1. I am a partner at the law firm of Irell & Manella LLP and counsel of record for The Trustees of Columbia University in the City of New York ("Columbia"). I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. Attached as Exhibit 1 is a true and correct copy of the November 13, 2003 order denying Columbia's Motion to Transfer pursuant to §1404(a) in *Immunex Corporation and Amgen, Inc. v. The Trustees of Columbia University of the City of New York*, Case No. CV-03-04349 MRP (the "*Amgen* case").

3. Attached as Exhibit 2 is a true and correct copy of the March 25, 2004 order entered in the *Amgen* case.

4. Attached as Exhibit 3 is a true and correct copy of the December 2, 2003 order in *Genentech, Inc. v. The Trustees of Columbia University of the City of New York*, Case No. C 03-1603 VRW.

5. Attached as Exhibit 4 is a true and correct copy of the March 1, 2004 order in *The Trustees of Columbia University in the City of New York v. Johnson & Johnson and Ares Trading, S.A.*, Case No. C 03-4875 PJH.

6. Attached as Exhibit 5 is a true and correct copy of the April 8, 2004 order from the MDL Panel granting Columbia's motion to transfer.

7. Attached as Exhibit 6 is a true and correct copy of the Reissue Application Declaration for U.S. Patent No. 6,455,275, dated June 17, 2004.

8. Attached as Exhibit 7 is a true and correct copy of the Preliminary Amendment To the Accompanying Reissue Application for U.S. Patent No. 6,455,275, dated June 18, 2004.

9. Attached as Exhibit 8 is a true and correct copy of Chris Ullsperger, *Lessons in Claim Construction from the Federal Circuit*, Intellectual Property Today, Sept. 2002.

10. Attached as Exhibit 9 is a true and correct copy of Manual of Patent Examining Procedure §§ 1441.01, 1442.04 (8th ed., May 2004 Rev.) ("MPEP").

11. Attached as Exhibit 10 is a true and correct copy of MPEP §§ 1901.02, 1901.03.

12. Attached as Exhibit 11 is a true and correct copy of MPEP § 2286.

Executed on June 18, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ David I. Gindler
David I. Gindler